

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of: )
Hilltop Church, Inc. )
v. ) CSR-6451-M
Cable Management Associates )
Request for Mandatory Carriage )
of Television Station KHMP-LP )
Pahrump, Nevada )

MEMORANDUM OPINION AND ORDER

Adopted: March 31, 2005

Released: April 1, 2005

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Hilltop Church, Inc. ("Hilltop"), licensee of low power television station ("LPTV") KHMP-LP ("KHMP" or the "Station"), Pahrump, Nevada, filed a complaint asserting mandatory carriage rights for KHMP on Cable Management Associates' ("CMA") cable system serving Pahrump, Nevada. No opposition to the Complaint was received. For the reasons discussed below, we grant Hilltop's complaint.

II. BACKGROUND

2. Both the Communications Act of 1934, as amended, and the Commission's rules require the carriage of "qualified" LPTV stations in certain limited circumstances.1 An LPTV station that conforms to the rules established for LPTV stations in Part 74 of the Commission's rules will be considered "qualified" if: (1) it broadcasts at least the minimum number of hours required pursuant to 47 C.F.R. Part 73; (2) it adheres to Commission requirements regarding non-entertainment programming and employment practices, and the Commission determines that the programming of the LPTV station addresses local news and informational needs that are not being adequately served by full power television broadcast stations because of the geographic distance of such full power stations from the low power station's community of license; (3) complies with interference regulations consistent with its secondary status; (4) it is located no more than 35 miles from the cable system's headend and delivers to the principal headend an over-the-air signal of good quality; (5) the community of license of the station and the franchise area of the cable system were both located outside the largest 160 Metropolitan Statistical Areas on June 30, 1990, and the population of such community of license on that date did not exceed 35,000; and (6) there is no full power television broadcast station licensed to any community within the county or other political subdivision (of a State) served by the cable system.2

1 47 U.S.C. § 534(c)(1); 47 C.F.R. § 76.56(b)(3).

2 47 U.S.C. § 534(h)(2); 47 C.F.R. § 76.55(d).

### III. DISCUSSION

3. In support of its complaint, KHMP states that it is a LPTV station licensed to Pahrump, which is in Nye County, Nevada.<sup>3</sup> It states further that CMA operates a cable television system that serves Pahrump.<sup>4</sup> KHMP asserts that on September 27, 2004 it demanded mandatory carriage of its signal on CMA's cable system serving Pahrump Nevada.<sup>5</sup> KHMP asserts that CMA did not respond in writing to its September 27, 2004 request for mandatory carriage within 30 days of receipt of such request as required by Section 76.61(a)(2).<sup>6</sup>

4. KHMP maintains that it qualifies for mandatory carriage on CMA's Pahrump system because it operates 24 hours per-day, far exceeding the minimum operating schedule established by Section 73.1740(a)(2) of the Commission's rules.<sup>7</sup> The Station also contends that it addresses local news and informational needs not served by full power stations as evidenced by its programming; thus meeting the Commission's non-entertainment programming and employment practices requirements.<sup>8</sup> KHMP maintains further that it complies with the Commission's interference regulations consistent with its secondary status and asserts that it is located within 35 miles from CMA's Pahrump cable system headend, which is 5 miles from the Station.<sup>9</sup> It also states that Pahrump, Nevada was outside of the 160 largest Metropolitan Statistical Areas as of June 30, 1990; that the population of Pahrump on the same date was below 35,000; and that there are no full power television stations licensed to any community within Nye County, Nevada.<sup>10</sup>

5. Absent opposition by CMA, the central issue in this proceeding is whether KHMP is a "qualified" LPTV station for must carry purposes. In that regard, the Commission has stated that an LPTV station will be entitled to must carry status only if it meets all of the requirements established in Section 614(h)(2) of the Communications Act and Section 76.55(d) of the Commission's rules.<sup>11</sup> In this case, we find that KHMP meets the requirements established by these provisions and, thus, is a qualified LPTV station for mandatory carriage on CMA's Pahrump cable system.<sup>12</sup> Accordingly, we grant KHMP's must carry complaint

### IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, that the complaint filed by Hilltop Church, Inc. **IS GRANTED** pursuant to Section 614(h) of the Communications Act, as amended, 47 U.S.C. § 534(h).

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<sup>3</sup> Complaint at 2.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 3-4.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.*

<sup>11</sup> See *Implementation of the Cable Television Consumer Protection and Competition Act of 1992 – Broadcast Signal Carriage Issues*, 8 FCC 2965, 2981 (1993).

<sup>12</sup> 47 U.S.C. § 534(h)(2); 47 C.F.R. § 76.55(d).

7. **IT IS FURTHER ORDERED** that Cable Management Associates **SHALL COMMENCE CARRIAGE** of the KHMP signal on its cable system serving Pahrump, Nevada within sixty (60) days after KHMP delivers a good quality signal to CMA's principal headend.

8. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.<sup>13</sup>

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert  
Deputy Chief, Policy Division  
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<sup>13</sup> 47 C.F.R. § 0.283.